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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EOLAS TECHNOLOGIES
INCORPORATED,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

Case No. 3:17-cv-03022-JST

**NOTICE REGARDING DISCOVERY
DISPUTE REGARDING COURT'S
ORDER (ECF NO. 403)**

On September 27, 2017, Judge Tigar issued an Order Re Alleged Prosecution Bar Violation (ECF No. 403)¹, which, *inter alia*, required Eolas to produce on October 13, 2017 “all documents, including but not limited to email, involving any Eolas representative or agents bound by the prosecution bar related directly or indirectly to the prosecution of the application leading to the ’507 patent.” (ECF No. 403 at 1.) The Order also required that, if Eolas declined to produce documents to Defendants, it must provide unredacted copies for *in camera* review, as well as redacted copies to the Court and to Defendants, a privilege log, and a counsel list. (*See id.* at 1-2.) On October 13, Eolas made an additional production, providing unredacted copies of 966 documents to the Court for *in camera* review, redacted copies of those same 966 documents to Defendants, and a privilege log together with a list of barred counsel. The Court’s Order in Paragraph 4 states:

If Eolas provides any material for *in camera* review pursuant to Paragraphs 1 or 2 as set forth above, the Court will determine how best to proceed. The Court may refer the matter to a Magistrate Judge; invite briefing on the basis of the privilege logs; conduct its own *in camera* review; or take other action to resolve whether the submitted materials must be produced to Amazon.

(ECF No. 403 at 2.) The subsequent deadlines in the Court’s Order trigger off of “resolution of the dispute identified in Paragraph 4.” (*Id.* at 2-3.) Judge Tigar then referred this dispute to Magistrate Judge Corley. (*See* ECF No. 407.)

The parties met and conferred on October 18, 2017 and understand that, as the Court has referred “the prosecution bar discovery dispute embraced by ECF Nos. 403 and 406” (ECF No. 407), the events described in Paragraphs 5 through 10 of Judge Tigar’s Order (ECF No. 403) are not due until after resolution of that dispute, including the due date for discovery requests described in Paragraph 5 of Judge Tigar’s Order. Amazon understands that it “will be advised of the date, time and place of appearance by notice from Judge Corley” (ECF No. 407) and will proceed according to any guidance Magistrate Judge Corley provides.

¹ Citation to docket entries are to the docket of Case No. 3:17-cv-3022-JST unless specified otherwise.

DATED: October 20, 2017

Respectfully submitted,

By /s/ Richard G. Frenkel

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